

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00358
Petitioner: Eugene P. Beres, Sr.
Respondent: Department of Local Government Finance
Parcel #: 006-27-18-0236-0006
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was not held. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$64,600. The Petitioner's first notice of his assessment was his tax bill.
2. The Petitioner filed a Form 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated November 15, 2004.
4. A hearing was held on December 15, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 1024 W. 42nd Avenue in Hobart, Hobart Township, Lake County.
6. The subject property is a single family residence.
7. The Special Master did not conduct an on-site visit of the property

Assessed Value of subject property as determined by the DLGF: \$64,600

Assessed Value requested by Petitioner: No specific value was requested.
8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

9. Persons sworn in at hearing:
- For Petitioner: Eugene P. Beres, Sr., Homeowner
For Respondent: Phillip Raskowski, DLGF

Issues

10. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a) The subject dwelling sits on a slab, not a crawl space. *Beres, Sr. testimony.*
 - b) The lot frontage should be 48 feet, not 51 feet. *Id; Pet'r Ex. 1.*
11. Summary of Respondent's contentions in support of the assessment:
- a) The Respondent agrees with the Petitioner on both issues. *Raskowski testimony; Resp't Ex. 2 at 2.*

Record

12. The official record for this matter is made up of the following:
- a) The Petition, and all subsequent submissions by either party.
 - b) The tape recording of the hearing labeled Lake Co 1182.
 - c) Exhibits:
 - Petitioner Exhibit 1: Survey of Subject Property
 - Petitioner Exhibit 2: Photographs of Subject Property

 - Respondent Exhibit 1: Form 139L
 - Respondent Exhibit 2: Subject Property Record Card (old and revised)
 - Respondent Exhibit 3: Subject Photograph
 - Respondent Exhibit 4: Comparable Summary
 - Respondent Exhibit 5: Comparable Property Record Cards and Photographs

 - Board Exhibit A: Form 139 L
 - Board Exhibit B: Notice of Hearing
 - Board Exhibit C: Sign in Sheet
 - d) These Findings and Conclusions.

Analysis

13. The most applicable laws are:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); see also, *Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E. 2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board....through every element of the analysis”).
 - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
14. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner contends that the subject dwelling sits on a slab rather than a crawl space, and that the frontage of the subject lot is 48 feet rather than 51 feet.
 - b) The Petitioner submitted documentary evidence, in the form of photographs and a survey, to support both issues. The Respondent is in agreement with the Petitioner on both issues.
 - c) As such, the Board hereby determines that both changes should be made to the assessment for 2002.

Conclusion

15. The Petitioner made a prima facie case. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to reflect that the subject dwelling sits on a slab, and that the frontage of the subject lot is 48 feet.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial_proc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.